

# WILK AUSLANDER

Wilk Auslander LLP  
1515 Broadway  
New York, NY 10036

T 212-981-2300  
F 212-752-6380  
wilkauslander.com

Randy Zelin  
Counsel  
(646) 375-7665  
rzelin@wilkauslander.com

May 22, 2020

The Government shall file a response to this motion by **June 2, 2020**. In its response, the Government shall confirm whether the BOP has decided to release Defendant for home confinement, and if not, shall provide an explanation as to why not.

**By ECF**

The Honorable Lorna G. Schofield  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl St.  
New York, New York 10007

Dated: May 27, 2020  
New York, New York



LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE

Re: United States v. Raymond Weng  
Criminal Docket No. 1:18 CR 813-01 (LGS)

Dear Judge Schofield:

I am the attorney of record for Raymond Weng. I hope this letter finds you safe and well during these unprecedented times. On behalf of Mr. Weng, I write to respectfully request his compassionate release, pursuant to 18 U.S.C. § 3582(c) and 28 C.F.R. § 571.61 in the face of the Novel Coronavirus (COVID-19) pandemic. This national public health emergency creates extraordinary and compelling circumstances, unforeseen at the time of Mr. Weng's sentencing on December 18, 2019, which I respectfully submit, necessitates his immediate release from FCI Canaan. There is also a twist to Mr. Weng's situation which puts him a bit of a different light than other inmates seeking compassionate release, because the Bureau of Prisons ("BOP"), as I am told, slated Mr. Weng for compassionate release June 4, 2020, and then without warning, reversed direction and withdrew his release.

Attached is the email I received from Mr. Weng's sister Amy yesterday, recounting her telephone conversation with Mr. Weng yesterday and confirming that Mr. Weng was to be released on June 4<sup>th</sup> – and then he was not.

By way of background, Mr. Weng was sentenced principally to five months in custody on December 18, 2019. Mr. Weng's projected release date is July 10, 2020.

The Commonwealth of Pennsylvania, where Mr. Weng is in custody, has 63,056 confirmed cases of the virus, with 4,505 deaths as of May 19, 2020. When I first wrote to the BOP back on April 3<sup>rd</sup>, the Commonwealth had 6,603 confirmed cases and 63 deaths. The Commonwealth remains under a "stay at home order" ("Red Phase") until June 4, 2020 with some

The Honorable Lorna G. Schofield  
May 22, 2020  
Page 2

counties moving or getting ready to move into a “Yellow Phase.” Nonetheless, COVID-19 is highly contagious and has proven to be deadly for individuals with pre-existing conditions and/or compromised immune systems. And, needless to say, inmates are at a particularly high risk because of the high transmission probabilities.

Circling back to my correspondence with the BOP, I have written to the BOP concerning Mr. Weng and his request for compassionate release on: April 3<sup>rd</sup>, April 8<sup>th</sup>, April 22<sup>nd</sup>, April 30<sup>th</sup>, May 4<sup>th</sup>, May 7<sup>th</sup>, May 11<sup>th</sup> and May 19<sup>th</sup> – it was not until yesterday that I was at first relieved to hear that my client would be going home and then immediately disheartened as I kept reading and saw the BOP had changed its mind.

Mr. Weng himself presents with a greater risk of becoming infected by COVID-19 and if infected, of greater likelihood of serious morbidity and mortality. Mr. Weng suffers from a weakened immune system, evidenced by a history of persistent respiratory infection – making him more susceptible to becoming infected with COVID-19. He also suffers from psoriasis, which is an autoimmune skin disease (and he has lingering effects as a result of suffering serious injuries in a pedestrian motor vehicle accident in July 2013).

I am aware that he was scheduled to take class(es) which were subsequently cancelled, and he has held various jobs – including washing the showers.

As the Court can see from Mr. Weng’s email to his sister Amy, apparently the BOP is resting its reversal on a question of Mr. Weng’s likelihood to recidivate – which candidly, I find incredible. The Court, most respectfully, will recall that at Mr. Weng’s sentencing hearing, I provided your Honor with a compendium of Mr. Weng’s achievements; his future goals and a host of good character letters. While out on bond, Mr. Weng continued his graduate studies and passed both his life insurance agent and real estate associate broker examinations. I respectfully submit that there is nothing in the record to suggest that Mr. Weng presents any danger to (a) recidivate; or (b) anyone in the community.

If released from custody, Mr. Weng will (a) reside with his parents Cheng Wei Lin and De Li Weng, at the family home located at 230-08 53<sup>rd</sup> Ave. Oakland Gardens, New York 11364. Mr. Weng will initially remain at home in order to self-quarantine and to best protect the public from possible exposure to COVID-19 and then he will resume his studies (dual degree MBA/Masters in Finance) at Suffolk University. Presumably, his classes will be taught online given this pandemic.

It is respectfully submitted that the threat of COVID-19 is real – and more so in the close quarters’ environment of a jail setting. As of this past Tuesday, it is my understanding that 2,818 federal inmates and 262 BOP staff members had positive test results for COVID-19 at federal prisons across the country, and 50 inmates have died.

It is universally recognized that with the surge in positive cases and in response to the Attorney General’s directives, the BOP has been reviewing all inmates who have COVID-19 risk factors as described by the CDC, to determine which inmates are suitable for home confinement. Since the release of the Attorney General’s March 26, 2020 Memorandum instructing the BOP to

The Honorable Lorna G. Schofield  
May 22, 2020  
Page 3

prioritize home confinement as an appropriate response to the COVID-19 pandemic, the BOP has placed an additional 3,049 inmates on home confinement for a 107 percent increase.

As stated above, Mr. Weng's situation is unique – but not singular. I understand that former Senator Dean Skelos requested compassionate release from the that the United States District Court for the Southern District of New York (Wood, J.) in the backdrop of the BOP apparently flip-flopping on Sen. Skelos' release. Consequently, the Court directed the BOP principally to inform the Court by a date and time certain whether Sen. Skelos would be granted a furlough or release on home confinement. It is my understanding that Sen Skelos has been in fact granted compassionate release and has been released to home confinement.

For all of the above reasons, and particularly in light of the fact that Mr. Weng was told he would be released early on June 4, 2020 and is scheduled for release on July 10, 2020 – and in the backdrop of Mr. Weng's vulnerability if he were to become infected – that your Honor grant him compassionate release to home confinement.

Thank you for your kind consideration. Stay safe and best wishes for the holiday weekend.

Respectfully submitted,

/s/ Randy Zelin  
Randy Zelin  
Wilk Auslander LLP

cc: Jacob E. Warren, Esq.  
Matthew J.C. Hellman, Esq. (both for the government)

Good afternoon,

Hope you're well!

Raymond called this morning advising that they will release him early on 6/4/2020 and he had signed some forms. But later this afternoon, they said that it was cancelled because his recidivism score was low.

Sent from my iPhone